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# The Challenges and Impact of Relationship Property Division

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Research Highlight

# 4



This Research Highlight is based on findings from research about relationship property division in New Zealand,<sup>1</sup> led by researchers from the Faculty of Law, University of Otago, and generously funded by the Michael and Suzanne Borrin Foundation. This research was undertaken in two phases:

- Phase One involved a nationwide telephone survey ascertaining public attitudes and values about post-separation relationship property division. During 2018, 1,361 telephone interviews were undertaken with a representative sample of 1,011 people, with additional interviews with 150 Māori, 100 Pasifika and 100 Asian respondents.
- Phase Two examined how separated couples divided their property and resolved any disputes. During 2020, an anonymous nationwide online survey was completed by 378 people and 110 of these respondents also participated in a telephone interview about their experiences and perspectives. The majority of the 378 survey respondents were women (82%), were born in New Zealand (79%), and had a tertiary qualification (71%). Most identified as New Zealand European (89%) and/or Māori (7%).

For full details of the study methods, participants and findings, please refer to our research reports and summaries, referenced at the end of this Research Highlight.

## Introduction

Making decisions about relationship property division occurs in the aftermath of a separation during what can be an emotional and difficult time for separated couples. This Research Highlight discusses the challenges that separated people experienced when dividing relationship property with a former partner and the impact this had had on them. In our research, while some participants navigated the property division process in a relatively straightforward manner, most encountered a range of difficulties and challenges. This Research Highlight outlines what separated people found challenging about the relationship property division process, what the impact was for them and their children, and what they thought would have helped them.

<sup>1</sup> The research informed a review of the Property (Relationships) Act 1976; see Te Aka Matua o te Ture | Law Commission *Review of the Property (Relationships) Act 1976 – Te Arotake i te Property (Relationships) Act 1976* (NZLC Report | Pūrongo 143, 2019).

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### Challenges or Difficulties Experienced

The majority of the participants encountered difficulties or challenges when dividing their property with their former partner – 92% reported personal challenges and 81% reported difficulties relating to the process of dividing their property (see Table 1).

**Table 1: Challenges or difficulties experienced**

Emotional distress/upset	81%
Stress/anxiety	78%
Dealing with former partner and/or their behaviour or attitude	72%
Lack of trust in my former partner	64%
Financial expense/cost	50%
Time it took to resolve	49%
Feeling pressured to agree	42%
Dealing with lawyers	35%
Health issues	28%
Valuation of assets and property	28%
Non-disclosure of financial information by former partner	28%
Navigating/understanding the process/system	26%
Other decisions to make/other proceedings, e.g., child support, maintenance, parenting arrangements	25%
Other financial issues/problems	22%
Inability to earn an income	19%
Lack of knowledge about relationship property law	17%
Not being able to afford legal advice	17%
Involvement of, and/or difficulty with extended family/whānau	17%
Involvement of, and/or difficulty with, my former partner's partner	15%
Accessing professional advice/help	13%

*"I just don't think people take it seriously enough, especially the emotional impact or the impact of dividing assets and of what you're losing. People say, well, it's only stuff. Well, yeah, but it's my stuff."*

### Emotional Distress and Stress/Anxiety

The most common challenges faced by most participants were experiencing emotional distress/upset (81%) and stress/anxiety (78%). Some described dividing property with their former partner as one of the most difficult, exhausting, and traumatic experiences of their lives. It could be especially challenging when having to also manage any pain and grief about their separation.

*It was the most dreadful, draining, damaging event I've ever been through. I wouldn't wish it on anyone.*

*The whole process is absolutely draining – mentally, emotionally, financially.*

*High stress at an emotionally challenging time.*

*This was one of the most distressing events in my life.*

Dealing with difficult or abusive former partners, anxiety about the outcome and their future financial security, selling and buying property, moving house, and difficulties with housing such as finding somewhere to live, and the expense of relocation, were all sources of stress. Juggling everyday life with all the tasks involved in dividing property or getting property ready for sale could also be challenging. For parents, this stress could be compounded by having to also care for their children on a daily basis, particularly when the children were struggling emotionally.

*The time it involved while trying to work and travel to lawyers and bank and school meetings, phone calls to all the above, and changing things into my name i.e., phone, internet, power bill, rates etc. So much to do at such a stressful time.*

*It was time-consuming, it was very worrying. I had no idea if I was going to be homeless. I was solo parenting and trying to cover it all up so the children would not know.*

*Having young children to look after emotionally and physically, as well as a part-time job meant, mentally, the property split was hard.*

*Had to work full-time and maintain a lifestyle block. Stressful having to deal with ex-partner who refused to negotiate or engage in any attempt at settlement. Physically had to bring overgrown, neglected property back to liveable/saleable standard.*



Making decisions about relationship property division while in an emotional and vulnerable state sometimes compromised a participant's ability to act rationally, seek support and advice, and ensure the settlement was fair. Feeling pressured to agree to the property division was reported by 42% of the participants. Some thought their emotional state had compromised their capacity to claim what they were entitled to. Lack of support, particularly from family/whānau, at such a difficult time could also be challenging.

*I was not in a good emotional state to divide the property and should have sought advice, but did not.*

*He was a bully and basically made me agree to the division he decided. I was so stressed, just wanted it over and done, so just agreed.*

*In the need to hasten the property division and become financially independent, I did not contest a number of decisions that seemed unfair at the time when I was vulnerable emotionally and financially.*

#### **Former Partners**

Participants' relationship with their former partner was an influential factor in the nature and duration of their property division experience (see Research Highlight 3).

Nearly three-quarters (72%) of the participants found it challenging to deal with their former partner and their behaviour or attitude, and nearly two-thirds (64%) did not trust them. Having former partners who were non-communicative, refused to engage, or lived in a different location, made it difficult for any negotiation to occur. Over a quarter (28%) of the participants reported that their former partner's non-disclosure of assets, debts or financial information was difficult. False valuations and fraud were also alleged. A former partner's unwillingness to disclose financial information, lack of engagement, delaying tactics, stonewalling, dishonesty, deception, and controlling, threatening or abusive behaviour could adversely affect participants' mental health, drive up costs, delay the process and result in unfair and unequal property divisions. The involvement of a former partner's family and/or partner could also prove challenging.

*He wasn't focused on getting it resolved. If the other party drags their feet, well, things are just going to drag on and on.*

*No matter what my lawyer suggested, my ex refused to agree to any of it.*

*My partner gave false valuations, didn't declare assets.*

*It is impossible to negotiate with someone who does not want to negotiate.*

*He wouldn't talk to me at all in a reasonable way. ... He stalled a lot. ... Despite the fact that there were all these legal things, my ex could just carry on refusing.*

*Former partner would not engage in any discussions or process.*

#### **Family Violence**

Those who had experienced intimate partner violence found the division of relationship property particularly challenging. Around 60% of the participants reported that there had been family violence in their relationship with their former partner, either during the relationship or following their separation. Of those, half reported that it had affected their property division in a number of different ways, often to their disadvantage. Some wanted to get the process over with and divide their property as quickly as possible, even if this meant they accepted a less than equal share. Conversely, for others, the property division process was lengthier as family violence appeared to be associated with longer times to reach a property division settlement.

*I pushed for a very quick settlement as I could not have communication ongoing with threats of violence and the fear that would have kept in my life.*

*It took longer and was incredibly stressful and meant a huge amount of emotional stress as my ex used it to continue his bullying ways.*

Family violence meant that a few participants chose to walk away or leave the relationship with nothing, or settled for unfair divisions, due to fear of their former partner or to avoid contact or conflict with them.

*I left with a suitcase of my clothes and nothing else. ... I just wanted out.*

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*After years of psychological and mental control and bullying it was easier to walk away and let him think he won.*

*I decided I needed to escape with my life rather than a fair settlement.*

Some participants felt coerced, bullied or pressured to settle their property division or were too scared or worn down to push for what they were entitled to. Others said their former partner controlled the nature and pace of the decisions made about their property division. They thought they had no choice but to agree and/or lacked the financial and emotional resources to raise any challenge.

*He made the choices, and I had to accept them basically. Due to a lack of financing, I couldn't defend myself properly.*

*The timeframe and process for property division were determined by my former partner and it often felt unsafe to disagree.*

*I was completely scared of my ex and what actions he would take if it wasn't going his way.*

*I didn't have the emotional capacity to contest the division of assets.*

For some participants, the property division process provided opportunities for ongoing abuse and coercive control to be perpetrated against them.

*My ex-partner used the entire process of property division to continue his intimidation and control of me.*

*The property division became part of the abuse and was used to manipulate and blackmail me.*

*My ex-partner was able to use the process to continue to frighten and degrade me.*

*Honestly, I knew what he was capable of and also knew he would never negotiate or be reasonable. He enjoyed the game he was playing and won. ... The system is very dis-enabling, especially when somebody is in a toxic and violent relationship. The ex had all the power and eventually won his game.*

### **Health Issues**

Their own health issues, or those of their former partner, made the division of property difficult for just over a quarter (28%) of the participants. Brain injuries, mental illness, and ongoing health issues due to family violence were the most commonly mentioned health problems that impacted on the property division process. Health issues also affected some participants' ability to earn an income.

*For a period, due to serious mental health issues, my partner was legally unable to make a decision.*

*Lack of acknowledgement of my PTSD because of his abuse and insistence I sit in a room with him when I couldn't speak and just shook.*

### **Financial Cost of Relationship Property Division**

While many participants were accepting of the costs they incurred, half of them reported finding the cost of dividing their property difficult. The most common expense, incurred by 85% of the participants, was for engaging the services of a lawyer, followed by paying the fees of valuers (37%) and accountants (16%). In addition, there were other related costs such as real estate commission fees, legal fees associated with obtaining Protection Orders, wills, conveyancing and making parenting arrangements, bank fees for mortgages and refinancing, and relocation costs.

Overall, around 40% of the participants rated the amount they spent to divide their property as unreasonable (38%) and unaffordable (41%). For expenditure over \$5000, more participants rated the amount as unreasonable and/or unaffordable, than rated it as reasonable and/or affordable. Unaffordability issues meant that some participants were unable to engage, or easily pay for, professional advice and support with their property division.

*Everyone else has just told me I need a lawyer, but how could I afford a lawyer when I was too traumatised to work and then only able to get a job working for \$18 per hour?*

Many found the cost of lawyers expensive and/or not worthwhile, particularly if they thought that a lawyer had not provided a good service or had acted in their own self-interest. If legal costs were considered prohibitive, this could lead to participants accepting a property settlement they were unhappy with because they could not afford to instigate, or continue with, legal or court processes.

*My lawyer charged for every phone call I made and every email I sent and achieved nothing because, in the end, my ex decided when he would pay and what he would pay. It was an additional burden financially.*

*The hourly rate is excessive for what they do. So much so, that you feel you can't talk freely with them.*

*It was not as good as I wanted and I don't think it was as good as if I had gone to court. But I was running out of money. I didn't have any more to pay lawyers.*

Former partners could drive up the cost of the property division process by failing to engage, delaying their responses, insisting on legal/court proceedings or valuations, or refusing to pay their share of the expenses. Dealing with a difficult former partner could also result in costs being incurred that might have otherwise been avoidable, for example, by needing to have a lawyer involved instead of self-resolving.

*The costs escalated as my ex played games and delayed unnecessarily. The only way to move things on was to pay for agreements to be drawn up, get valuations done at my cost etc.*

*My ex-husband refused to engage with his lawyer, so my lawyer ended up doing all of the work and I bore the cost of the division by far. This was not taken into account in the property division, so it certainly cost me more.*

*My ex delayed the process as much as possible because he could and he could afford to. ... I had no real way of progressing this. I could not afford a good lawyer nor the costs of court.*

Financial difficulties, such as not being able to earn an income or afford legal advice, or other financial issues or problems, were also experienced by around a fifth of the participants.

*I was incredibly vulnerable financially in the immediate aftermath. No person at the end of a relationship should find themselves immediately cut off from the income they had depended upon and having to beg an ex-partner for money to eat. The power differential and humiliation were huge.*

*I was earning very little and the mortgage started going into arrears. I had phone calls from the bank every two days asking when I would pay.*

### **The Time it Took to Resolve**

Nearly half (49%) of the participants reported that the time taken to settle their property division was challenging. It took less than a year for over half (58%) of the participants and, for most (83%), matters were settled in less than three years. Generally, as the time taken to resolve the property division increased, so too did the proportion of participants who rated this as unreasonable. Resolution times of a year or longer were regarded as unreasonable by the majority of participants.

Those who resolved their property division quickly were generally satisfied with the time it took, while others thought the process dragged on. This was often due to their former partner's lack of engagement or delaying of the process. However, lawyers were also said to contribute to delays by taking too long to respond or to file documents during legal negotiations, or by being unavailable.

*It just literally took years. ... It's just the number of responses back and forwards between the two lawyers. It takes them a month between each other to answer a simple letter. ... It just drags on and on. I mean, that's the worst thing is the time it takes. Literally, it came down to an Excel spreadsheet and a meeting. It took three or four years to get to it.*

*The length of time it took to resolve meant that stress levels were prolonged and constant so this affects ability to work well, parent well etc. The ongoing financial abuse left me feeling powerless and vulnerable.*

*[Former partner] dragged it out, with not agreeing to when our relationship started and his lawyer dragged it out basically by just not filing things when she should have and not getting back to my lawyer when she should have and things like that.*

For some participants, not having their property division resolved promptly, meant living in limbo, being unable to move on with their lives, purchase a new property, relocate or make a clean break.



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### **Dealing with Lawyers**

While using a lawyer was regarded as the most helpful step participants took to resolve their property division, over a third (35%) found dealing with lawyers (either their own or their former partner's) a challenge. They complained about lawyers not having an adequate knowledge of relationship property law and financial matters, making mistakes, providing poor quality advice, having ulterior motives, and being unhelpful, unsupportive, unavailable, ineffectual, and unprofessional. Some had felt bullied and pressured by their former partner's lawyer. Others complained about a lack of action by lawyers or their adversarial approach, which some participants thought could exacerbate conflict between parties or complicate the property division.

*When lawyers got involved, we got nasty really quick. ... Lawyers love writing letters. They get paid quite a lot of money for each letter they send, and they can be very adversarial and it doesn't get the best outcomes. It just keeps the arguing going a long time.*

*It was a disaster and my lawyer was useless. Gave bad advice and did not protect me or even get proper disclosure.*

*We went to what I thought was a mediation, but it was basically his lawyer threatening me, I mean, literally threatening me. Just the nastiest piece of work I have ever come across. ... The ultimatum was either you accept this within the next two weeks or he's going to cut you off. There's no more money coming in. We will take you to court. We'll take your house away from you. It was nasty, threatening stuff.*

*The legal toing and froing between lawyers was also not helpful. ... It was frustrating, because that was several years of doing that and very expensive and really draining.*

### **Valuation of Assets and Property**

Over a quarter (28%) of the participants experienced problems relating to the valuation of properties, shares or businesses. These included concerns about the impartiality of the valuer, one party not believing a professional valuation was necessary, or disagreements about the valuation date or amount. When valuations were not obtained, this sometimes led to parties under- or over-estimating asset values, which impacted on property division outcomes. Difficulties in determining accurate property values sometimes also occurred when multiple and varying valuations were obtained.

*The hardest thing I think is the fact that you have to go and get valuations. Often your ex will get a valuation and you will get a valuation on property, or this or that, and it's then whose valuation?*

*He disagreed with the professional valuer who valued the house and thought that the house was worth ... a huge amount more than the professional valuer thought or that I thought. It was so annoying, because it was like, 'I know you want it to be worth more because then you will walk away with more money. But if a professional valuer is telling us both, and this is their profession, this is what they do, this is their professional advice, then surely we just have to go by that'.*

*My ex used friends/contacts to get items valued in his favour.*

### **Other Concurrent Issues and Proceedings**

A quarter of the participants reported that resolving other issues or having concurrent proceedings, such as for child support and/or parenting arrangements, were additional challenges that could complicate the property division.

*Having the difficulty of also trying to resolve custody happening alongside this, and being threatened with being taken to court, knowing I couldn't afford that. ... The pressures of custody, and disagreements over that, also play out in trying to divide property.*

### Trusts

The presence of a trust could make the property division process challenging for participants who were either unaware of the trust or lacked understanding of its purpose, assets and operation.<sup>2</sup> Some experienced difficulty making claims in relation to trust assets as part of the property division process and/or reported that trusts had been used to disadvantage them.

*The trust was illegally used against me during the process in an attempt to disadvantage me. Took a lot of effort and the skills of a very experienced QC (my lawyer) to have the Family Court instigate the trust busting clause to free up assets.*

*I don't feel I had a fair settlement because my ex-husband used the trust as a means to defraud me.*

### Dealing with the Family Court

Only a small proportion (10%) of the participants had gone to the Family Court to divide their property and, of those, around two-thirds found dealing with the Family Court difficult. Participants complained that the Family Court was frustrating or broken, with long delays, high costs and unfair outcomes.

*The time frames to get into court and between hearing dates are too long. Not only does it increase the possibilities of financial abuse, but it also keeps children caught between emotionally charged parents for too long.*

*Family Court system is terrible. Huge waits, huge expense, and often very unfair outcomes.*

### What Would Have Made the Process Easier?

Participants identified ways that could have addressed some of the difficulties they experienced or made the property division process easier for them, including:

- Obtaining legal advice or representation, or having more professional, knowledgeable, competent and supportive lawyers involved.
- More affordable, or free, legal advice and representation.
- Obtaining a relationship property agreement to either contract out of the PRA or to set out the property division settlement once negotiated and agreed.
- Simpler or clearer documents and/or processes to divide property – such as spreadsheets, templates and online forms.
- Shorter timeframes and the avoidance of undue delays.
- Affordable accommodation options and more certainty about the right to remain in the family home (for a period).
- Differences in their own, or their former partner's, attitude or behaviour – being more reasonable, fair, cooperative, honest, trustworthy, timely and transparent, or less emotional, difficult or abusive.
- Financial knowledge and understanding – having greater clarity, and full disclosure, about their financial situation; better understanding about the division of superannuation and the process and timing of valuations; and greater financial literacy.
- Information, advice and support – more information about the property division process and parties' entitlements; and greater support and guidance from family/whānau and agencies, particularly emotional support.
- Improvements to the law, legal system and dispute resolution processes.

<sup>2</sup> Te Aka Matua o te Ture | Law Commission (n 1): "When a partner places property on trust, they pass legal ownership to the trustees. In most cases, trust property will fall outside the PRA because it is no longer beneficially owned by the partners. Because property held on trust generally falls outside the PRA, there is no requirement that trust property be divided at the end of a relationship" (at paras 55-56, see also Chapter 11).

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## Impact of the Property Division

Given the challenges experienced by many of the participants, the impact of the property division process on their lives could be wide-reaching, affecting their mental and physical health, financial wellbeing, employment and ability to earn an income, living situation, relationship with their former partner, children, and how they approached subsequent or future relationships.

*A year later I am still struggling with the emotional, physical and financial consequences.*

*Was extremely traumatising and has damaged me mentally and financially.*

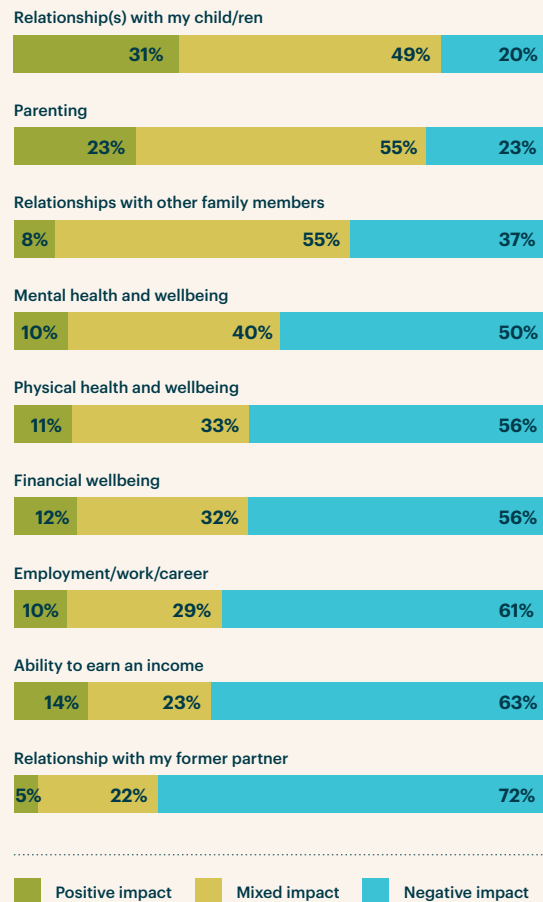
*The process came close to destroying me.*

Only 3% of the participants reported that their property division had not had an impact on them personally. Dividing property with a former partner affected most participants' mental health (84%), financial wellbeing (80%) and physical health (55%) (see Table 2). Just over half (51%) reported that it affected their relationship with their former partner, mainly detrimentally. It was generally more common for participants to report the property division having a negative impact on their lives, rather than a positive or mixed (both positive and negative) impact (see Figure 1). Exceptions to this were evident for impacts on relationships with children and other family members and parenting, where mixed impacts were more common.

**Table 2: Personal impact of the property division**

	Impact Overall %
Mental health and wellbeing	84%
Financial wellbeing	80%
Physical health and wellbeing	55%
Relationship with my former partner	51%
Employment/work/career	37%
Relationship(s) with my child/ren	30%
Parenting	27%
Ability to earn an income	26%
Relationships with other family members	22%
It didn't affect me personally	3%

**Figure 1: Impact of Property Division**



Note: Due to rounding, percentages may not add to 100%



### **Impact on Mental Health and Wellbeing**

The high level, and often prolonged nature, of the stress involved in dividing property had a significant impact on the mental health of many participants. Most (84%) thought their mental health had been affected in some way, with 90% of these participants reporting a negative or mixed impact. A range of mental health impacts were described including depression, post-traumatic stress disorder, anxiety, and insomnia. A small number reported having breakdowns, some requiring hospitalisation, and being suicidal. Poor mental health could result in participants accepting less than what they were entitled to in the property division due to their inability to advocate for themselves.

*I had a breakdown that affected my ability to stand up to the lawyers and general bullying to get me to accept much less than I should have.*

*I ended up on medications so I could deal with that depression and anxiety.*

*I feel really good but, to be really honest, I know for a fact that I'm still recovering from it. I literally do think I came out of it with a post-traumatic thing. I was very nervous and very exhausted.*

### **Impact on Physical Health and Wellbeing**

Participants' physical health could also suffer due to the stress involved in the division of property. Over half (55%) thought their physical health had been affected, with 89% reporting a negative or mixed impact. Physical health could also be compromised by smoking or drinking too much, insufficient exercise, and either over- or under-eating due to stress.

*I was very distressed during that time. Unable to swallow solid food. I lost a lot of weight, had to change jobs to earn more, and I had regular counselling. I cried daily and had sleeping problems.*

*I was just about having a heart attack over how stressful this was. I literally had to go to see a cardiologist who told me that I have a cardiac arrhythmia that's probably stress-related. I mean, I'm someone who has been very, very healthy my whole life, never had any issues like this, and I started to think this process is so stressful that it's affecting my health.*

### **Impact on Financial Wellbeing**

Over half (57%) of the participants reported that the division of their property worsened their financial situation. For some, this was due to the outcome of the property division itself, while, for others, it was related to having to move or to care for children, which affected their ability to earn an income. When the property division affected participants' employment and/or ability to earn an income this could contribute to their financial insecurity. Going from a pre-separation joint income to a lower post-separation income could also detrimentally affect their financial wellbeing, with some struggling to manage.

*I found it stressful and was anxious about how I was going to afford to live as my income was significantly less than our previous joint income.*

*I struggled for months after to pay bills and for food because of the debt and money required to buy furniture and household items.*

*I'm definitely less secure, we're actually struggling to pay our basic living expenses at the moment. The costs of trying to maintain contact with the children, there's just no money for it. ... It just breaks my heart when the kids come down and the house is freezing and damp and there's no way that we can do the renovations.*

An inability to access financial resources during the property division process also had implications for some participants. Lacking access to funds or having to continue paying a mortgage and other outgoings in the interim period between the separation and property settlement could create challenges. Sometimes, it was the actions of a former partner, such as freezing accounts or delaying settlement, that left participants with little or no income to live on.

*I got no money for a long time. It was really difficult ... when I had nothing to live on in the meantime because I was a 'stay at home' mum. I had four teenagers. I was now living in a rental property, while my ex owned several properties that were worth over a million each, and I was trying to get back into the workforce after a very long break.*

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*He cut the money. So, then I had no money at all to live on. Then he stopped paying the mortgage on the house. ... It's very embarrassing when you need to ask people for money and you feel like you need to justify what you might be spending your money on. ... It's the most revolting thing I've ever been through in my life and I would never wish it on my worst enemy.*

Those participants who came out of the property division with sufficient funds and/or earned a good income often reported being able to recover financially. However, many others said the property division had set them back financially. This was particularly true for parents with the primary care of their children, those living on a low income or benefit, or those now solely paying the mortgage or rent.

Some participants were particularly concerned about financial security in their retirement, as the property division meant they now had less money and fewer assets and, in some cases, had split their superannuation with their former partner. The financial impact was especially difficult for those nearing retirement age who had less time to regain financial security or pay off their home loan, which could make the “future look very scary”. Some reported having to work past age 65 as a result.

*This has seriously affected my long-term life. My retirement now is going to be five, six years more than what it was going to be before because I'm still going to be having to pay mortgages. ... I had to take on an extra mortgage to pay out. ... It has added another 10 years to my mortgage, so I won't be mortgage-free until I'm 75!*

*The biggest thing for me [was] I'd been counting on having his income well into my retirement. ... So, I definitely don't have that backstop.*

*I'm actually back to ground zero. So, I think the other thing I would say tied to this relationship property, it's also the longitudinal impacts for what that means, actually this scares the bejesus out of me in terms of retirement. ... Not only has it affected my mental health and my earning capacity, but also what it might mean for some people as they go into retirement. ... It's a real concern. I know I can sleep on a floor and a couch quite happily, but going forward I don't really want to be 70 still working.*

*I'm really old now. Past retirement age and I've had to go back to work. ... I'm having to start over again instead of winding down and enjoying my grandchildren.*

*I was just before 50, and it's kind of like I've had to start again in a lot of ways. I'm starting again like a 20-year-old. ... I've got no house deposit and haven't really got that stability that I was definitely hoping for at this age where I'm starting to do more fun things with my life. I'm now having to focus on my future and my retirement, rather than reaping the rewards of having worked all my life. ... I kind of resent it now that I've worked all these years and I have nothing much to show for it. So, it's made a huge impact, it means these things I can't do that I wanted to do and that I don't have financial security for retirement at this point.*

Just over a fifth (21%) of the participants reported an improvement in their financial situation following the property division. For some, feeling more financially secure related to having financial independence from their former partner and greater financial control, even if their income was now lower. Some participants had reduced their costs by living more simply or not having to deal with their former partner's expenditure. Others reported that recovering their financial security after the property division was helped by being able to focus on their career, business, or study.

*After 37 years of marriage I had independence. I knew that money I put in the bank would still be there when I went to use it.*

*Selling the property meant I was financially independent again, meant I was free to chase career opportunities, meant I no longer had debts that had resulted from the relationship. I was free and able to achieve my own goals.*

*Way more secure, because I'm just paying for myself and I know what bills I need to pay and I can budget.*

*I'm settled now. It took about five years to bounce back from my separation. I thought, to be honest, I'd never own a property again. Now I've got a house that's worth a lot more than the one I was in with my husband. Yeah, things have come back well. So, sometimes when you think you've lost everything, it's not the case and things can turn around.*

### **Impact on Relationship with Former Partner**

Nearly two-thirds (65%) of the participants described a 'poor' or 'very poor' relationship with their former partner at the time they were dividing their property, with only 16% describing the relationship as 'good' or 'very good'.

Just over half (51%) of the participants thought that dividing property had affected their relationship with their former partner in some way. Of these, nearly three-quarters (72%) reported the impact as negative, 22% reported a mixed impact and only 5% rated the impact as positive. For some participants, the property division process had created or exacerbated conflict with their former partner or led to resentment or distrust.

*It definitely caused more conflict between us.*

*I almost feel now that person isn't in my life anymore. I could never pass them on the street and give them a smile because I feel like we've just been in such a ferocious battle together, even though no words were spoken. It was all like behind the veil, through lawyers, but it gets pretty serious and pretty aggressive. We don't speak now. ... We've got a logbook that goes between the households for the kids. Yeah, we're still toxic. That won't change in a hurry.*

*We separated reasonably amicably at the time, thinking that we were going to be the best separated parents ever. But, I think, amongst other things, the property settlement has poisoned that relationship somehow.*

While acknowledging the property division could be challenging, some participants and their former partner had managed to maintain a civil and cordial relationship.

*We were civil right through the whole thing. We still are. We still get on. So, we were talking, but we had our moments I can tell you.*

*In spite of the frustrations of it all we're still on reasonably good, friendly terms.*

*It was quite fraught for a while. Yeah, it's funny because once the money side of things had been sorted and the relationship property had all been settled, we've actually developed quite a cordial relationship. ... Once it got resolved, it was good. But yeah, it was quite tense before it got resolved.*

### **Impact on Employment/Work/Career**

Over a third (37%) of the participants reported that the property division had impacted on their employment, work or career and, for over a quarter (26%), it had affected their ability to earn an income. Of these, nearly two-thirds reported these as negative impacts.

The division of property affected participants' work/careers (or study) in several ways. For some, the stress of the process was detrimental to their mental health and this then impacted on their work, affecting their concentration and ability to function effectively in their job.

*I had about eight months where I was unfocused at work.*

*It was so stressful. I couldn't sleep. This affected my performance at work. I took a lower level job that I knew I could manage during this stressful time. Of course, lower paid too.*

*It was just so time-consuming. I would have spent more hours a week working on that than I was on my job. ... It definitely affected my income. I'm self-employed and so my business was quite badly affected.*

The stress meant some participants were unable to work or had to change jobs, where they perhaps earned less. Others needed to relocate for financial reasons, and this also meant obtaining a new job. Some participants found it difficult to progress in their career, while others bemoaned having to increase their hours of employment or continue working past retirement age because of the property division outcome.

*I gave up a very good nursing career, purely because when you're trying to deal with all of this, all of that, to then get up every day, five days a week, get yourself ready to work and deal with other people's health issues. You just can't do it. So, I literally walked away from a very lucrative, very well-paid nursing career.*



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*I had three years of basically I couldn't move, like trying to move for training. So, I couldn't really move. [I had to] change the way I was working just to try and get through all the legal stuff. So, it probably put me back about three years.*

*I am really unwell, but I have had to force myself in my old age to get well enough to return to work instead of enjoying a much needed retirement.*

Juggling competing and multiple demands while working, such as parenting, attending appointments relating to the property division, and getting the family home ready for sale, could be distracting and stressful.

*Parenting and working full-time under great amounts of stress is very challenging.*

Parents who had to take on more care of their children after the separation also found this impacted on their career and earning ability, often at a time when their financial situation was already compromised by the separation and property division. These parents had to reduce their hours of employment or take on a lower paid role in order to care for their children.

*I have had to take a step down career-wise and income in order to minimise child's time in care. My choice based on what's best for him.*

*“Have a good think about what the impact is going to be once everything's settled, in terms of relationships, in terms of the anxiety, your own health and wellbeing, and also the financial side.”*

### **Impact on Living Situation**

Just over half (51%) of the participants moved house and over a third (36%) moved to a new neighbourhood, town or city following their separation/property division. For some, a poor financial situation due the property division resulted in an inability to purchase a new home, a reduction in their standard of living, or unstable or low-quality accommodation.

*We moved five times in one year, seven times in two years, until we found stable housing.*

*As I was 60 when the divorce occurred, and I had to move to another part of the country to be able to afford to live, my job prospects were limited due to my age and the availability of work. ... My living circumstances have changed dramatically from a four bedroom house to a garage.*

*I can no longer buy a house or rent a house as there is insufficient income.*

*For the first year after the settlement, I had so little money that I couldn't afford to heat my house properly in winter.*

### **Impact on Subsequent Relationships**

The majority (88%) of the participants indicated that their experience of dividing property with their former partner had affected the way they had approached, or might approach, subsequent relationships. Getting a 'prenuptial', or contracting out, agreement with a new or future partner was the most common step that 56% indicated they had already taken or would consider taking (see Research Highlight 5). Nearly half (48%) said they had discussed, or would discuss, with a new partner the issue of how property would be divided if they separated, and 45% said they would seek legal advice before cohabiting or marrying. Nearly a third (30%) indicated they had, or would, put their assets in a trust.

Nearly four in ten (39%) participants said they had chosen, or would choose, not to live with a partner, because of the financial risk that moving in together might pose for them should this relationship end. Others had chosen to remain single, with some adamant they would never re-partner again as a result of their property division experience with their former partner. While some reported being much happier being single, others said they had been so detrimentally affected by their experiences that they were unwilling to re-partner again.

*I have zero interest in another relationship. Not going to make that mistake again. Although my life is much harder now financially, and it's taken me quite some time to get over the grief and anger, I'm actually much happier now than I ever was when we were together. Living on my own is quite pleasant and, once I get my debts paid off and my living expenses to a comfortable level, I will be quite happy never to be involved in another relationship again.*

*I doubt I will re-partner as I am too damaged and would never risk getting exploited and financially exposed again.*

*I have no personal property now. My current home is in a trust. It will be a cold day in hell before I let anyone move in.*

*I don't want to risk losing what I have, so am unlikely to have another live-in partner.*

#### **Impact on Children**

**Children aged under 18 years** were most commonly affected by the property division by having to move house (55%), with 29% of the participants reporting that children had to move to a new location (a new neighbourhood, town or city). However, moving house or location did not necessarily mean that children's childcare and/or education changed. Over three-quarters (77%) of those participants who reported children moving house, and 61% of those who reported children moving location, indicated that the children did not need to change schools or childcare.

Most of the impacts on children reported by the participants were negative. They described the detrimental effects of residential mobility, financial stress and insecurity, parental stress, interparental conflict, and family violence. Children's emotional and mental wellbeing could be compromised by both the separation and the property division when they did not understand, or were distressed by, what was happening in their family.

*Moving house was hard on them as we left their friends, community etc. I could not afford to buy in the same area.*

*This has had a significant impact for my children and their wellbeing in an erosion of the cooperation between their parents and the results of significant and prolonged financial insecurity.*

*It was absolutely terrible for the children. I mean, they can see that one parent has much more money than the other one. They don't know what to make of it. Their health suffered. ... It was really awful times. Really, really bad.*

*I've kind of managed to move my life forwards, but unfortunately with our kids they've really suffered. All three of them have got behavioural issues. ... The conflict, the moving. I think me having to move so much. Yeah, it's been really tough. They haven't been protected by it at all. ... They're great kids. They're just needing a lot of stabilising that they have missed out on the last three and half years and a lot of that, from my perspective, stems from a really [bad] financial settlement that saw their mum really destabilised. Which is not good for anyone's wellbeing. It's not good – the kids' needs aren't served.*

*My kids were distressed and angry with us both.*

*My ex-partner used the property division process to influence my children's relationship with me.*

*I would have liked to have been able to resolve all matters within 12 months of separation. The ongoing conflict caused serious mental health issues for our child and for me.*

Participants reported that their child's relationship and contact with their former partner (usually, but not always, the child's other parent) tended to be negatively, rather than positively, affected by the property division. The proportion of participants reporting that the property division worsened this relationship (28%) was almost three times higher than the proportion indicating an improvement (10%).

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**Adult children** could also be affected by their parents' property division – 31% of those participants with adult children reported largely negative impacts on these children including:

- **A change in residence** – if they were living in the family home or another property owned by their parent(s) that was sold as part of the property division.
- **Relationships with other family members** – such as being upset with one parent's behaviour towards their other parent during the property division process.
- **Inheritance expectations and trusts** – when trusts and/or assets were dissolved or split, this could affect adult children's inheritance expectations or beneficiary status under a family trust.
- **Financial consequences** – parents were sometimes less able to support their adult children or withdrew their financial support. This meant some parents could or would not financially help young adult children attending university or contribute to their wedding costs. Disagreements over property had also resulted in legal costs for some adult children. Sometimes they had had to support a parent financially for a period after the property division.
- **Emotional wellbeing** – adult children sometimes had to support their parent(s) emotionally, as well as being emotionally affected themselves by the impact of the property division process on their parent(s).

*One son lived in an apartment we owned and subsequently sold under him leaving him homeless.*

*My older children are adversely affected financially as I am unable to support them in their university studies*

*Former partner cancelled any provisions for children e.g., life insurance, and will not contribute to their futures e.g., wedding.*

*They were supporting me for my mental health and financially.*

*They were adversely affected by the turmoil and stress from all involved.*

A few participants reported positive impacts on adult children, such as now being in a better financial position to support them, adult children receiving money or a share in the family home, improved relationships or a reduction in conflict, and positive living arrangements.

### **Positive Impacts of Property Division**

While the impact of the property division reported by participants was predominately negative, some also outlined positive effects. Nearly a third (31%) of the participants whose relationships with their children were affected by the property division indicated that the impact was a positive one. No longer having to have contact with a former partner, particularly if they were volatile or abusive, and having financial freedom from one's former partner, were also reported as positive outcomes of settling the property division.

*I felt a lot better. Enormously better. Let's say I was, and I still probably am, clinically depressed in the strict terms. But having the singular control over the little monies that I had. ... Having gone from, at times, \$100k plus income to now working \$19 an hour, I feel a lot, lot better.*

General feelings of autonomy, freedom, independence and being in control were also reported, with common themes of recovery and empowerment. Several participants distinguished between a negative or difficult process and a positive outcome. While the experience of dividing property had been difficult, they had moved on and were now in a good place. Many reported recovering and being in a better place emotionally, even if their financial situation was poorer or less secure than it had been.

*I changed as a person and have managed to turn it into something positive for me personally, but it was very stressful.*

*I'm feeling much more relaxed now, if somewhat monetarily poorer. I think maybe I gained emotionally, physically and spiritually, while maybe he hasn't had it so easy. I guess I wouldn't change anything; did what I thought best at the time and that's okay.*

*I've completely changed my life and have completely moved on and everything is good now but, yeah, it was a very tough six months and it took a good year to really come right and stand on my own two feet.*



*At the time it is stressful going through this. I don't think you can lessen that stress. It's a process, it's not a nice process that has to be gone through. ... I felt a little bitter that I had got the worst end of the deal. But I've got my own house, I've got a good relationship going with my partner and my children. Overall, it's worked out okay.*

*I'm normally a fairly strong person and I felt like I was quite powerless and helpless and I felt weak initially. ... It made me have to get out there and get my life sorted out, so that was kind of a degree of empowerment. By the end of it, by the time it was all done and dusted, I had grown hugely through the whole process.*

*I signed the separation document, got to page seven where it said we had no legal or moral obligation to each other. It was like this huge weight was lifted from my shoulders and the sun shone brighter. ... My life is actually pretty good.*

*Having it sorted was a big relief. I was able to feel a lot more positive and less scared about the future. I used the settlement money to buy two houses in a small village in another province. I now live in one of them five years later. I am, financially, at about the same place alone as I was when with my former partner, and emotionally and mentally much healthier and happier. Overall, not being with an abusive person, and being able to divide the property and make a fresh start, was absolutely vital to my health and wellbeing. Sure, I lost some money, but I made it back and, more importantly, I got MYSELF back. That more than makes up for it.*

*I am certainly not anywhere near the lifestyle I had. But what little I have, I'm free to do with what I want. You can't put a price on freedom.*

## Summary

Concerningly, most participants in our research found the division of their property to be a challenging and stressful process, even when it was relatively uncomplicated and straightforward. Around 80% reported experiencing emotional distress/upset and stress/anxiety, and around half found the cost and the length of the property division process difficult.

The impact of the property division process on people's lives is clearly wide-reaching, affecting not just their mental health, but also their physical health, financial wellbeing, retirement prospects, employment and ability to earn an income, living situation, relationship with their former partner, children (both young children and adult children), and how they approached subsequent or future relationships. The nature and strength of the impact obviously varies depending on personal circumstances. Clearly, supporting people through this process is important.

The property division process could, however, lead to positive outcomes. Many participants reported recovering, and moving on, from the experience and being in a better place, even when their financial situation was poor or less secure than it had been.

*"At first the effect was mainly negative. The stress I was feeling and the emotional upheaval of the shock of what my spouse did, what happened, on top of trying to sort everything out, meant that I couldn't sleep, hardly ate, struggled to get through each shift at work. Had to leave my job I liked to find a job with more hours and better pay. ... But, over time, I got on top of things and the security of retaining my home and not having to move on top of everything has helped me to make a good life. ... My ex-spouse has made a mess of his life and that is sad because it was all for nothing, but I am okay and it is easier not having him here. My new job pays more and is close to home. My finances are good for everyday needs, however, I have very little to retire on."*

## Research Highlight 4

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### Relationship Property Division in NZ Research Highlight Series

There are six Research Highlights in this series. Each provides helpful information and advice about:

1. Knowledge and Understanding of Relationship Property Division
2. Relationship Property Division: Insights From Those Who've 'Been There, Done That'
3. How the Relationship Between Former Partners Affects Their Property Division
4. The Challenges and Impact of Relationship Property Division
5. Prenuptial/Contracting Out Agreements
6. Dividing Relationship Property: A Guide about Issues to Consider

### Research Reports and Summaries

#### Phase One

Ian Binnie, Nicola Taylor, Megan Gollop, Mark Henaghan, Shirley Simmonds and Jeremy Robertson, *Relationship Property Division in New Zealand: Public Attitudes and Values. A General Population Survey* (Technical Research Report, Michael and Suzanne Borrin Foundation, Wellington, New Zealand, 2018).

Ian Binnie, Nicola Taylor, Megan Gollop, Mark Henaghan, Shirley Simmonds and Jeremy Robertson, *Relationship Property Division in New Zealand: Public Attitudes and Values. A General Population Survey* (Research Summary, Michael and Suzanne Borrin Foundation, Wellington, New Zealand, 2018).

<https://www.borrinfoundation.nz/report-relationship-property-division-in-new-zealand-public-attitudes-and-values>

#### Phase Two

Megan Gollop, Nicola Taylor, Ian Binnie, Mark Henaghan and Jeremy Robertson, *Relationship Property Division in New Zealand: The Experiences of Separated People* (Descriptive Research Report, Children's Issues Centre, Faculty of Law, University of Otago, Dunedin, New Zealand, 2021).

Megan Gollop and Nicola Taylor, *Relationship Property Division in New Zealand: The Experiences of Separated People* (Research Summary, Children's Issues Centre, Faculty of Law, University of Otago, Dunedin, New Zealand, 2022).

<https://www.otago.ac.nz/cic/research/index.html#relationship-property>

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